

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
At Charleston

MICHAEL H. HOLLAND, MICHEAL O.  
MCKOWN, JOSEPH R. RESCHINI and  
CARLO TARLEY as Trustees of the UNITED  
MINE WORKERS OF AMERICA 1992  
BENEFIT PLAN,

Plaintiffs,

v.

KEYROCK ENERGY, INC.  
P.O. Box 112,  
Barbourville, WV 25504

Defendant.

Civil Action No. 2:21-cv-00374

**COMPLAINT**

1. Plaintiffs, Michael H. Holland, Michael O. McKown, Joseph R. Reschini and Carlo Tarley are Trustees of the United Mine Workers of America 1992 Benefit Plan ("The 1992 Plan"). The Trustees are fiduciaries with respect to the 1992 Plan within the meaning of Section 3(21)(A) of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1002(21)(A). The Trustees conduct the business of the 1992 Plan at 2121 K Street, N.W., Washington, D.C. 20037.

2. The 1992 Plan is an irrevocable trust fund created pursuant to Section 9712 of the Coal Industry Retiree Health Benefit Act of 1992 ("the Coal Act"), 26 U.S.C. § 9712.

3. The 1992 Plan is a Plan described in Section 302(c)(5) of the Labor Management Relations Act, 29 U.S.C. § 186(c)(5); an employee welfare benefit plan within the meaning of

Section 3(3) of ERISA, 29 U.S.C. § 1002(3); and a multiemployer plan within the meaning of Section 3(37) of ERISA, 29 U.S.C. § 1002(37).

4. Keyrock Energy, Inc. (“Keyrock”) is a corporation, with an office and/or address at PO Box 112, Barboursville, West Virginia 25504.

6. Jurisdiction is conferred on this Court by Section 9721 of the Coal Act, 26 U.S.C. § 9721; Section 4301(d) of ERISA, 29 U.S.C. § 1451(d); and Section 502(e) of ERISA, 29 U.S.C. § 1132(e).

7. Venue is proper in this district under Section 9721 of the Coal Act, 26 U.S.C. § 9721; Section 502(e)(2) of ERISA, 29 U.S.C. § 1132(e)(2); and Section 4301(d) of ERISA, 29 U.S.C. § 1451(d), in that Defendant Keyrock is incorporated in West Virginia and is engaged in its normal business activities within this district.

8. Defendant Keyrock is a "related person" to Childress Service Corporation (“CSC”) within the meaning of Section 9701(c)(2)(A) of the Coal Act, 26 U.S.C. § 9701(c)(2)(A). As of July 20, 1992, the measurement date under the Coal Act, both Keyrock and CSC were owned 100% by John J. (“Joe”) Childress. As such, pursuant to Section 9712(d)(4) of the Coal Act, 26 U.S.C. § 9712(d)(4), Keyrock is jointly and severally liable for the amounts owed to the 1992 Plan by CSC under Section 9712 (d)(3) of the Coal Act, 26 USC Section 9712(d)(3).

9. CSC was a "Last Signatory Operator" as that term is defined in Section 9701(c)(4) of the Coal Act, 26 U.S.C. § 9701(c)(4). CSC was signatory to the 1984, 1988 and 1993 National Bituminous Coal Wage Agreements. Childress employed mineworkers in the business of washing coal. Certain of the CSC retirees and their eligible dependents are receiving

health benefits from the UMWA 1992 Benefit Plan, as beneficiaries attributed to CSC as their Last Signatory Operator.

10. Pursuant to Sections 9712(d)(1)(A) and 9712(d)(3) of the Coal Act, 26 U.S.C. Sections 9712(d)(1)(A) and 9712(d)(3), Defendant Keyrock is jointly and severally liable for the payment of monthly per beneficiary premiums based on the number of such beneficiaries receiving benefits from the UMWA 1992 Benefit Plan.

11. The 1992 Plan has judgments against Keyrock, dated October 18, 2007 and November 16, 2007, totaling \$888,916, for monthly premiums based on the CSC beneficiaries. For many years, the Defendant made monthly payments, but it has stopped making monthly payments.

12. At this time, monthly premiums accrue on the fifteenth of each month in the amount of \$7,105.36 for the nine CSC beneficiaries. By letter dated April 5, 2021, the 1992 Plan reminded the Defendant of its responsibility for these beneficiaries and requested payment of the monthly per beneficiary premiums accrued since April 2015. Keyrock has not paid.

13. Keyrock failed to pay the required premiums for many months, including June 15, 2015 through May 15, 2021. During this period, \$465,888.97 in premiums has accrued and remains unpaid. Therefore, Defendants have failed to discharge their obligations under Section 515 of ERISA, 29 U.S.C. § 1145, and Sections 9712(d)(1)(A) and 9712(d)(3) of the Coal Act, 26 U.S.C. Sections 9712(d)(1)(A) and 9712(d)(3), and have caused the 1992 Plan to sustain loss of income, and incur administrative and legal expenses.

14. Interest has accrued on the monthly premiums from the dates they became due until May 15, 2021, in the amount of \$58,994.27.

WHEREFORE, the Plaintiffs pray for the following relief:

- (a) A declaration that Defendant Keyrock Energy Inc. is a related person within the meaning of Section 9701 (c)(2)(A) of the Coal Act, 29 U.S.C. § 9701 (c)(2)(A) to Last Signatory Operator Childress Service Corporation;
- (b) A declaration that Defendants' liability to the 1992 Plan for the monthly per beneficiary premium for the period June 15, 2015 through May 15, 2021 is \$465,888.97;
- (c) Judgment for the entire liability set forth in paragraph (b), plus interest thereon from the date such amount became due and owing, together with liquidated damages, pursuant to Section 9721 of the Coal Act, 26 U.S.C. § 9721; Sections 502 (g)(2), 515, and 4301 (b) of ERISA, 29 U.S.C. §§ 1132 (g)(2), 1145 and 1451(b), and for all amounts that become due during the pendency of this action;
- (e) Judgment for attorney fees and other costs and disbursements in this action;
- (f) that the Court retain jurisdiction of this case pending compliance with its orders; and
- (g) for such other and further relief as the Court may deem just.

Respectfully submitted,

---

BARBARA E. LOCKLIN  
Assistant General Counsel  
DC Bar# 418206

GLEND A FINCH  
General Counsel  
DC Bar# 254763

LARRY D. NEWSOME  
Associate General Counsel  
DC Bar# 420503

UMWA HEALTH & RETIREMENT FUNDS  
Office of the General Counsel  
2121 K Street, N.W., Suite 350  
Washington, D.C. 20037  
Telephone: (202) 521-2238

s/ James W. "Woody" Hill

---

WOODY HILL  
Local Counsel and Outside Co-Counsel  
WV Bar# 9209

WOODY HILL – ATTORNEYS AT LAW - PLLC  
Chase Tower Suite 1450  
707 Virginia Street East  
Charleston, WV 25301  
Telephone: (304) 984-6700

Attorneys for Plaintiffs